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Conformed Copy

Contract No. 14-06-W-194

AGREEMENT

THIS AGREEMENT made and entered into this 20th day of September, 1965, pursuant to the Act of June 17, 1902, and acts amendatory thereof and supplementary thereto, and particularly the Act of April 11, 1956 (70 Stat. 105), by and between the United States of America acting through the Bureau of Reclamation and Bureau of Indian Affairs, Department of Interior, the Ute Indian Tribe of the Uintah and Ouray Indian Reservation, organized pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended, and the Central Utah Water Conservancy District, a public corporation.

W I T N E S S E T H:

WHEREAS, the Central Utah project is planned for development and construction in two phases, initial and ultimate, and

WHEREAS, the project includes three major units, Bonneville, Upalco and Uintah, all or a part of which involve the Uintah and Ouray Indian Reservation within the Uintah Basin, two of which, Bonneville and Upalco, are included in the initial phase and the Uintah in the ultimate phase, and

WHEREAS, there are approximately 36,450 acres of land served or to be served from the Duchesne River, Bonneville Unit; 33,450 acres of land served or to be served from the Lakefork River, Upalco Unit; and 39,648 acres of land served or to be served from the Uintah River, Uintah Unit, either owned by Indians or non-Indians, but all of which

are supplied or are to be supplied with water through original Indian water rights, and

divided into 5 groups

WHEREAS, the Indian water right land has been scheduled in five separate groups for identification purposes, described as group (1) for which a Federal Decree has been entered, 25,070 acres of which are served or to be served from the Lakefork River and 34,152 acres from the Uintah River; group (2) consisting of 18,613 acres designated by the Secretary of the Interior as a part of the Uintah Indian Irrigation Project, and for which a certificate has been issued by the State Engineer of Utah and served from the Duchesne River; group (3) consisting of 1,115 acres designated by the Secretary of the Interior as a part of the Uintah Indian Irrigation Project and served or to be served from the Duchesne River but for which no certificate has been issued by the State Engineer of the State of Utah; group (4) consisting of 1,480 acres of original Indian allotted land served or to be served from the Duchesne River; and group (5) consisting of 29,118 acres of practicably irrigable land presently not under irrigation, 15,242 acres of which are to be served from the Duchesne River, 8,380 acres to be served from the Lakefork River and 5,496 acres to be served from the Uintah River, and

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WHEREAS, development of all of group (5) land is proposed to be deferred to the ultimate phase of the Central Utah project, and

WHEREAS, the United States, acting through the Bureau of Reclamation, intends to construct the Bonneville unit of the Central Utah project as a part of the initial phase, and

WHEREAS, there are approximately 36,450 acres of land on the Duchesne River, either owned by Indians or non-Indians, but all of which are supplied or are to be supplied with water through original Indian water rights, and

WHEREAS, part of the Bonneville unit water supply will be used to irrigate approximately 10,000 acres of Indian water right lands under the existing Duchesne Feeder Canal and Midview Reservoir in order to free Lakefork River water for use upstream on lands in the Moon Lake Project, and

WHEREAS, the Ute Indian Reservation was established on the 3rd day of October 1861, embracing all of the three Unit Areas as described in the third whereas clause hereof, with the reservation of then perfected water rights sufficient to satisfy the future as well as the present need of the Indian Reservation with enough water to irrigate all the practicably irrigable acreage of the Reservation, and

WHEREAS, approximately 15,242 acres of practicably irrigable land within the Uintah and Ouray Indian Reservation of said group (5) lands and within said Bonneville Unit Area are presently not under irrigation, and

WHEREAS, the Ute Indian Tribe of the Uintah and Ouray Indian Reservation, for the considerations and subject to the conditions hereinafter stated, is agreeable to defer the use of water on said 15,242 acres of land for development under the ultimate phase of the Central Utah project;

NOW, THEREFORE, in consideration of the mutual and dependent

covenants and conditions herein contained, it is agreed by the parties hereto as follows:

1. That construction of the Bonneville unit of the Central Utah project, initial phase, as authorized by the Congress of the United States, and as planned by the Bureau of Reclamation, may proceed without objection, interference or claim adverse to the water requirements for such unit, as set out in the Duchesne River Area Study Committee, Duchesne River Land and Water Resource Review dated April 1962.

2. That use of water on 21,208 acres of Indian water right land in the Uintah Basin portion of the Bonneville unit, with the priority date of October 3, 1861, described as groups (2), (3), and (4) in said report dated April 1962, is recognized and confirmed.

3. That use of water for the 15,242 acres of Indian owned land, described as group (5) in said Study Committee Report dated April 1962, may be deferred at this time upon the condition that said lands be included in the ultimate phase of the Central Utah project, as hereinafter provided.

4. That deferment of the development of said group (5) lands for irrigation purposes is granted by said Ute Indian Tribe conditioned upon the full and complete recognition of the water rights of said tribe, with a priority date of 1861 in groups (1), (2), (3), (4) and (5) as described in the book of claims filed with the State Engineer, State of Utah, by the Ute Indian Tribe, without resort to litigation.

5. It is further understood and agreed that said deferment

shall neither constitute an abandonment by said tribe, nor be construed as consent to any further deferment of the right to the use of water for the 15,242 acres referred to in paragraph 3 above. If the ultimate phase of the Central Utah project is not completed sufficiently to supply said Indian water rights by the 1st day of January, 2005, equitable adjustment will be made in accordance with said reserved and perfected water rights of the tribe to permit the immediate Indian use of the water so reserved. It is agreed that the first day of January, 2005, shall be mutually considered as the maximum date of deferment and that all phases of the Central Utah project will in good faith be diligently pursued to satisfy all Indian water rights at the earliest possible date. Under no circumstances shall the fixing of such maximum deferment date be construed as an agreement or license to interpose the satisfaction of inferior water rights delaying the satisfaction of said deferred Indian rights, except where the orderly development and construction of the Central Utah project directly requires such deferment of said Indian rights to be supplied from the ultimate phase of said Central Utah project.

6. No Indian water rights, referred to herein, shall restrict the owner thereof to agricultural uses but such rights may be used for purposes other than agricultural, including but not limited to industrial, municipal and recreational uses.

7. That the use of water from the Duchesne River and its tributaries in the Bonneville unit area, unless otherwise agreed in writing, shall be subject (1) to a river headgate diversion allowance

of 4 acre-feet per acre annually and (2) shall be delivered generally in accordance with an ideal demand curve for irrigation purposes, except for the purposes described in paragraph 6 hereof.

8. That the point of diversion from the Duchesne River of the Wissiup Leland and Ouray School canals be moved upstream by the Uintah Indian Irrigation Project to the point of diversion of the Duchesne Feeder Canal.

9. That facilities will be provided under the Colorado River Storage Act to mitigate for losses to fish, wildlife and recreation upon the lands of the Ute Indian Tribe of the Uintah and Ouray Reservation or of its members caused by the construction and/or operation of the Central Utah project. This provision shall not be construed as any limitation upon the acceptance or use of any benefits as may become available under enhancement provisions of said act.

10. That development of the Uintah Unit of the ultimate phase of the Central Utah project to provide storage of the runoff waters of the Uintah River and its tributaries, be programmed for early authorization and construction.

11. That Bottle Hollow Reservoir be investigated at an early date with a view of including the same as a storage facility of the Uintah Unit.

12. That the exchange of Duchesne River water under the existing Duchesne Feeder Canal and Midview Reservoir for Lakefork River water in order to free Lakefork River water for use upstream on lands in the Moon Lake Project shall not impair the 1861 priority of the

Ute Indian Tribe or its members either in flow or storage right, and such exchange shall not be construed as an exchange of water rights.

13. Nothing herein contained shall be construed as preventing the construction and use of facilities by the Ute Indian Tribe, the Uintah Indian Irrigation Project, or the United States for storage and use of water upon all Uintah Indian Irrigation Project lands not supplied from facilities constructed under the Central Utah project.

14. This agreement is subject to the approval of the Secretary of the Interior or his duly authorized representative.

UNITED STATES OF AMERICA

BUREAU OF RECLAMATION

By /s/ N. B. Bennett, Jr.
Acting Commissioner

BUREAU OF INDIAN AFFAIRS

By /s/ John O. Crow
Deputy Commissioner

UTE INDIAN TRIBE OF THE UINTAH &
OURAY RESERVATION

By /s/ Francis Wyasket
Chairman

CENTRAL UTAH WATER CONSERVANCY DISTRICT

By /s/ Sterling D. Jones
President